डा॰ कुमकुम राय (बिहार): सभापति महोदय, मैं इससे अपने आपको संबद्ध करती हूं।

श्री विजय सिंह यादव (बिहार): सभापति महोदय, मैं इससे अपने आपको संबद्ध करता हूं।

श्रीमती चन्द्रकला पांडे (पश्चिमी बंगाल): सभापति महोदय, मैं इससे अपने आपको संबद्ध करती हूं।

SHRI MANOJ BHATTACHARYA (West Bengal): Sir, I also associate myself with this Special Mention.

श्री सभापति: सारा हाउस इससे अपने को संबद्ध करता है। सदन की कार्यवाही भोजन अवकाश के लिए 2 बजे तक स्थगित की जाती है।

The House then adjourned for lunch at fifty-eight minutes past twelve of the clock.

The House re-assembled, after lunch, at two of the clock.

[MR. CHAIRMAN in the Chair.]

STATEMENT BY MINISTER

Re: Criminal case against Shri Shibu Soren, M.P.

THE MINISTER OF HOME AFFAIRS (SHRI SHIVRAJ V. PATIL): Sir, it has been reported in a section of the Press that Shri Shibu Soren, Union Minister of Coal and Mines had been involved in a murder case and that a warrant of arrest has been issued against him recently.

It has been reported by the State Government of Jharkhand that Shri Shibu Soren is one of the accused persons in Narayanpur P.S. Case No. 7/75 dated 24.1.1975 (G.R. 30/75) under sections 147/148/149/302/436 IPC. It is further intimated by the State Government that the first information report in the above case was filed on 23.01.1975.

As many as 69 persons were accused in the above case. All of them were chargesheeted together on 25.12.1979. Three persons were committed to Session Court for trial on 18.7.1986. Later, 56 persons were committed to Session Court for trial on 6.9.1986. These 59 persons did not include Shri Shibu Soren. All these 59 persons are facing trial in the court of learned Additional District and Session Judge (ADJ). Shri Shibu Soren is not facing trial in this case since he was not committed to Session Court for trial.

It is further reported that learned trial court ordered arrest warrant *vide* order dated 21.2.2003 against all accused persons. On 5.9.2003, on behalf of Shri Shibu Soren, a petition was filed by his defence lawyer stating that he was not committed to trial to that court and hence the arrest warrant against him was not justified. Considering his petition, arrest warrant against Shri Shibu Soren was recalled by learned ADJ on 5.9.2003.

SHRI ARUN JAITLEY (Gujarat): Sir, I am very grateful to the hon. Home Minister that he has tried to ascertain certain facts at the short notice that he had not made this statement. I don't mean any personal disrespect to the Home Minister, but I must submit, through the House, to you, Sir, that the statement which has been made ends up in concealing more about this case than what it has really revealed. The statement says that 69 people were chargesheeted in this case. The statement further says that 56, out of them, were committed to the Session trial on 6.9.1986 and three persons were committed for trial on 18.7.1986. So, out of 69 people, 59 people have been committed to trial. But, Shri Shibu Soren, the hon. Minister in this Government, is not facing the trial. The implication of this and there is a certain gap in the statement when the hon. Home Minister says this out of 69 if only 59 have been committed and 10 have not been committed, including Mr. Shibu Soren, have these 10 been discharged or acquitted at some stage. What happened to those 10 is the fact which the hon. Home Minister's statement does not make clear. Now the fact is that on 6.9.86—as per the information we have received, I would request, through you, Sir, the hon. Minister to check this out and kindly reply to this—the case of these 10 people was segregated. There appears to be a judicial order which says इस केस को उन 59 लोगों के केसेज़ से पृथक किया जाता है, अलग किया जाता है। The withdrawal of the warrant has taken place because subsequently the warrant was erroneously issued in the case relating to those 59. Therefore, since 6.9.86 when the case of these 10 has been separately segregated, what has happened to that case? Is there an appearance by him in that case? Is there a warrant against him in this case? This statement completely misses out the fact that the case of these 10 people, including, Shri Shibu Soren, has been segregated and it is that case, the fate of which is not known. It has been reported today in some newspapers in Jharkhand that the file of the case is allegedly missing. I do not know

whether this is factually correct or not. It is, therefore, this vital information which goes to the crux of this case, which the hon. Home Minister really must try and find out from the State Government, or, through the agencies that are available at his command, because being a serious matter, is this the same case in which 9 members of the minority community and one Scheduled Tribe person was killed by a large crowd? Is this the same case in which one of the persons who eventually died made a dying declaration saying that so and so was leading the mob which attacked them? With all this evidence, merely because the case is segregated, now it is not proper to say, he was not facing trial. What has happened to his case, whether he has been acquitted? If the facts mentioned in the newspapers are wrong, we will accept what the hon. Home Minister says. But if that case is still pending and the file is lying somewhere unattended, then, it speaks volumes as to how influential people can really subvert the courts of justice, as far as this country is concerned.

SHRI ASHWANI KUMAR (Punjab): Sir, I have just a point of clarification. If the Opposition, speaking through my good friend Mr. Jaitley, does not want to see the facts as they are, there is nothing we can do about it. Para 3 of the statement of the hon. Home Minister's leaves no manner of doubt or ambiguity whatsoever that Shri Soren was neither committed to Sessions nor convicted. Therefore, the question of arrest warrant does not arise. Now, what happened to a particular file and how the case was segregated is a matter of the administration of justice, the processes of justice. I can understand my learned friend's difficulty in embarrassing his own party by raising an issue which never really was worthy of wasting the time of this House.

श्री सभापति: आप क्लेरिफिकेशन पूछिए। एक मिनट.....आप क्लेरिफिकेशन किससे चाहते हैं?

SHRI ASHWANI KUMAR: From the Opposition.

श्री सभापति: क्लेरिफिकेशन आप गवर्नमेंट से कीजिए।

SHRI ASHWANI KUMAR: I would like to know from the Opposition under which circumstance, the time of this House was wasted. ...(*Interruptions*)...

SHRI ARUN JAITLEY: What happened to that case? .....(*Interruptions*)..... Where is the file? ...(*Interruptions*)... Has he been acquitted?

SHRI ASHWANI KUMAR: The Home Minister has made a statement. I do not think any further clarification is required. The statement is absolutely clear, admits no ambiguity and there is no commitment of Shri Shibu Soren, no question of a warrant had arisen. The warrant was wrongly issued and rightly withdrawn. That is the sum and substance of the case. I would like the hon. Chairman to take note of it.

SHRI YASHWANT SINHA (Jharkhand): Sir, there are a few clarifications that I would like to address through you, to the Home Minister. The first is: did the hon. Minister, Shri Shibu Soren mention this case as a live case against him in the affidavit that he filed before the returning officer when he became a candidate for the Lok Sabha? The second clarification that I would like to ask the hon. Home Minister is: did Mr. Shibu Soren ever appear as an accused in this case before the preliminary court or whatever it was in Jamtara in Jharkhand? Sir, I am asking this because the information, which we have would suggest that he appeared three times before that court, on 6.3.75, on 18.12.75 and on 4.5.79. Then, Sir, the Home Minister, has said that he was not committed to Sessions. He was not committed to Sessions. Sir, according to our information, he did not appear before the court. He did not respond to the warrant. Therefore, he did not appear and this is how the case was segregated. Now, I know, Sir that the hon. Home Minister is making this statement on the basis of the report that he has received from the State Government of Jharkhand. As my colleague, Mr. Arun Jaitley, who has his own sources of information from the State Government, I very humbly submit, Sir, through you to the hon. Home Minister that all these additional points of clarifications that we have raised should be replied to by him now, if he has the information; or if he does not have the information, then, will he kindly try to get the information so that the House, this hon. House is fully informed of what the exact situation is? I am asking this because again this very brief statement that the hon. Home Minister has made conceals more, as has been said, than it reveals.

SHRI DIPANKAR MUKHERJEE (West Bengal): Sir, I am sure we are not going to have another law court discussion in the Parliament, the judgement of all the details and the whole case to be reopened and there will be a court instead of a Parliament. My only submission to the hon. Home Minister is: did the Arjun Munda Government ever decide to withdraw all cases including this one? If so, when and how many cases has he withdrawn excepting this case? And was not the withdrawal of this case pursued?

SHRI ANAND SHARMA (Himachal Pradesh): Thank you, Mr. Chairman. Sir, after listening to my learned friends, Shri Arun Jaitley and Shri Yashwant Sinhaji, one thing is clear— that day before yesterday the matter which was raised in the House, for which we lost the entire day, did not warrant that kind of agitation, given the statement of Home Minister and the fact that Shri Shibu Soren was discharged, he was not committed for Sessions trial and that happened not today but more than two and a half decades ago. If by default or mistake a warrant as per the para four of the statement was issued, when it was pointed out to the court, the learned court withdrew the warrant. My first specific question is: Is this House the forum for this, as Shri Arun Jaitley has said? What is the fate of the case? If he was not committed to the trial, what is the fate of the case? Shri Arun Jaitley has been the hon. Law Minister of this country, he knows better about the criminal justice system. If an accused is not committed to trial, is this House the forum to find out, ascertain the fate of the case, the progress of the case? Sir, is this House concerned at all? This is my first question. My second question is, there are millions of cases pending. (*Interruptions*) That is my viewpoint. (*Interruptions*) I am asking the hon. Home Minister through the hon. Chairman....(*Interruptions*)... I am not asking you (*Interruptions*) Let me complete. (*Interruptions*) I am not asking you ...(*Interruptions*)... I am not asking you ...(*Interruptions*).. let me complete ...(*Interruptions*)... My specific question to the hon. Home Minister is this. Is it true that the contents of the statement, which the hon. Home Minister has read, have been supplied or given to the Ministry of Home Affairs by the present State Government of Jharkhand?

And, lastly, is it a fact that the Assembly of Jharkhand had passed

a unanimous resolution for withdrawal of all those cases, which include this particular case, and is it not a fact that the BJP is in power in that State?

SHRI RAM JETHMALANI (Maharashtra): Sir, I am very sorry that somewhat extremist positions are being, unnecessarily, taken on only right and on my left. The simple question, which really requires to be answered—there I once agree with my friend Mr. Arun Jaitley— is that, after all, Mr. Shibu Soren was actually charge-sheeted in court amongst the sixty-nine persons who were initially charge-sheeted. Out of sixty-nine persons, fifty-nine have been committed in two instalments — three on 18th July, 1986 and 56 on 6th September, 1986. Now, the remaining ten persons, who were not committed to the Sessions, were not committed for one reason or the other. There are only two reasons which exist. The first one is, those ten persons, having obtained bail at the first instance, absconded and were not available for a sufficient time. Then, the court got tired and said, "All right. I will only commit those who are available." And, it committed only those, leaving the ten absconding persons out. Now, is that the situation? Or, he was not committed because the court found that there was not a sufficient cause for his committal to the court of justice. If first is the situation, it is a matter of deep concern, because if a Minister is absconding from justice—whether or not he is convicted finally; whether or not he is guilty is not the question— it is a matter of grave concern. That is a matter which the hon. Minister, obviously, had no time to go into. He will find out and report it to the House. Thank you.

SHRI SHIVRAJ V. PATIL: Sir, many questions have been raised. I will reply to each of these questions separately. I am asked to explain what happened to the case. The hon. Member is asking this question today in this House. On that day, when this matter was raised, the issue was, whether the Minister was absconding and whether the Minister was a proclaimed offender. That was the issue. It is not necessary for me to get this information from a judicial court and give it to you. What is happening in the court cannot be discussed on the floor of the House. That has either to be discussed in the court of Judicial Magistrate or in the Sessions Court or in the High Court or in the Supreme Court, not in the Rajya Sabha. So, naturally, I was not collecting the information as to what has happened to this case. The only point is.....

SHRI ARUN JAITLEY: Mr. Minister, will you please yield for a minute?

SHRI SHIVRAJ V. PATIL: Okay.

SHRI ARUN JAITLEY: I am grateful to my learned friend, Mr. Jethmalani, as he further elaborated what we said. The case of those ten people was segregated because they were not appearing and absconding. I have with me, besides news reports, some documents which show that the judicial order of 6th September, 1986, says, "....because they are appearing, I segregate this order...."—these people— "...and a separate trial will be held." So, the question really is, what happened to them. Are they absconding? Have they been discharged in that? If they have not been discharged for the last seventeen years, and when a Minister in the Government is not appearing and is absconding, the Superintendent of Police, in his report to the Government said, "Abhiyukth farar" and that is the first name of Mr. Shibu Soren. Now, in such a situation, you get incomplete facts and say he is not one of the fifty-nine, but I don't tell whether he is one of the ten, for whom the file was segregated. And, we don't know what happened to that file. (*Interruptions*) The matter after this statement has become more serious. (*Interruptions*)

SHRI DIPANKAR MUKHERJEE: Is it to be quoted like this? Again, I am asking you, "Are you going to make it a court?" He is quoting something from some document. How can he say.....(*Interruptions*). On what basis does he say, ''अभियुक्त फरार है'' Is this the way.....(*Interruptions*) Is this the way...(*Interruptions*)

SHRI SHIVRAJ V. PATIL: Sir, I have made my point. I was replying to the question that had been raised in this house—whether the Minister was absconding; whether he was a proclaimed offender. How could he be a proclaimed offender, when he was contesting the elections; when he was sitting in the House; when he was appearing before so many people? How can he be an absconder, a proclaimed offender? (*Interruptions*)

SHRI ARUN JAITLEY: Contesting elections do not discharge you from the offence. (*Interruptions*)

SHRI SHIVRAJ V. PATIL: Sir, I would not be able to reply to each and every question they would be raising afterwards. They had raised a question on the first day, and that question was whether he was a proclaimed offender or not. Mr. Jaitley is a very renowned lawyer. We respect him. He has legal acumen. I am sure he knows the meaning of 'proclaimed offender'. A proclaimed offender is an offender who is not appearing before the court, and the court has declared to the world that he is absconding. Then, the Criminal Procedure Code becomes applicable. Mr. Jaitley wanted us to go by the Criminal Procedure Code, and not by the rule of law. And, Sir, he quoted the Criminal Procedure Code, here. (*Interruptions*) Sir, I should be allowed to speak, now. So, my effort was to get the information whether he is absconding, whether he is a proclaimed offender or not. The information, which I have received, does not show that he is a proclaimed offender, nor the facts show that he could have been missed to be noticed by the police or any authority who wanted to arrest him. It is not for one year, this case is pending since 1975. Since 1975, Sir! And, you come to this House on the basis of something that had appeared in the media, without ascertaining the facts whether he had really been declared as a proclaimed offender or not. You raise it without giving any opportunity to us also to find out the facts and help you, help this House and help everybody to come to the correct conclusion. You jumped to the conclusion just after reading a newspaper and said that he was a proclaimed offender. Do you know what has happened to him? Now, everybody thinks that he is a proclaimed offender. While the facts that have come to me—I do not know the other facts—do not substantiate that he is a proclaimed offender. You should have known what a 'proclaimed offender' means. A person who has been moving in the society could not have been declared as a proclaimed offender. Now, they are saying that you don't have to collect the information with regard to the fact whether he is a proclaimed offender or not. I am expected to collect the information with regard to the entire case, as such. From the beginning to the end, that is not correct. And, I am not expected to reply to these kinds of things. I don't have the information. I am not expected to collect the information from the Judiciary and give it to the Legislature in this fashion.

The second point is, as one of the hon. Members raised, whether, at the time of filing his nomination papers, he mentioned it or not in his affidavit that a case is pending against him. Sir, this is a fact. At the time of filing his nomination papers, he did mention that this case was pending

before the court. He had not hidden this fact. But that fact does not make him a proclaimed offender, let us understand this. Your information is correct.

Thirdly, did the Government withdraw the cases?

Now, orally I was told that at one time the previous Government decided to withdraw the cases. At that time, some decision was taken. And when Mr. Babulal Marandi was there, I was told that they decided to withdraw the case. Later on, when Mr. Arjun Munda came, they decided that the cases should not be withdrawn. Mr. Arjun Munda also, it seems, was one of the accused in that case. The case against him was withdrawn, but the case against Shri Shibu Soren was not withdrawn. ....(*Interruptions*)...

SHRI ARUN JAITLEY: If the hon. Minister ...(*Interruptions*).. The hon. Home Minister must remember that the Jharkhand Government decided to withdraw cases of the Jharkhand agitation, and not the cases of burning of five members of the minority community ...(*Interruptions*).

SHRI SHIVRAJ V. PATIL: Mr. Chairman, Sir, I don't have ..(*Interruptions*)... I have been told orally about it; the facts can be ascertained. I am not saying that this happened and this did not happen. I am just saying that I was orally told about it. It was collecting the information only about one point whether he is a proclaimed offender or not, and not about anythingelse ...(Interruptions)... I am not alleging anything against Mr. Munda. ...(*Interruptions*)...Please, please ... (*Interruptions*)...

श्रीमती सुषमा स्वराज (उत्तरांचल): सर, एक्ट में कोई भी एग्जेम्पशन इंटरनेशनल इवेंट के लिए नहीं है। इंटरनेशनल इवेंट के नाते मंत्री महोदय कोई संरक्षण न दें...(**व्यवधान**)... इंटरनेशनल इवेंट के लिए कोई भी एग्जेम्पशन एक्ट में नहीं है।

श्रीमती सरला माहेश्वरी (पश्चिमी बंगाल): आप इनके लिए अपने रूल्स बदल देंगे। ...(**व्यवधान**)... रूल्स में ही चेन्ज कर देंगे।

SHRI SHIVRAJ V. PATIL: Sir, a pertinent question has been put. ...(*Interruptions*)...This was an agitation started by the tribals in which many people were involved, and, I think, those who are now opposing each other were also part of that. This incident happened; this was not an individual, isolated case, it seems, this happened in a crowd. These

details were given to me orally, and they were not given in writing. Regarding the details, which were given to me in writing, I have put them before the House.

One very pertinent question has been put by one of the hon. Members: It is because he was absconding that the case was not committed to the trial court? Sir, the procedure that is followed in the court is that, very learned lawyers are sitting in this House know this, the FIR is filed, prosecution starts, then, the chargesheet is prepared. That chargesheet is filed in the Magistrate's court, and the Magistrate applies his mind to find out whether there is *prima facie* case, or not. If he finds that there is a *prima facie* case, then, it is sent to the Sessions Court and the Sessions Court tries the case and, then, punishes or acquits the accused person. This is the procedure. What has happened in this case is, the FIR is there and the name of the Minister is there. In the chargesheet also, the name of the Minister is there. But he is not committed to the Sessions Court, and the Sessions Court had wrongly issued a warrant also against him when the case was not committed, when he was not an accused before the Sessions Court. Recognising that there was some mistake, the warrant was withdrawn. Now, that the warrant was issued, and it was withdrawn goes to show that he is not a proclaimed offender...*(Interruptions)*...

SHRI ARUN JAITLEY: Mr. Chairman, Sir, in 2004, in his affidavit how did he mention that this case is pending against him? ...(*Interruptions*)...

SHRI SHIVRAJ V. PATIL: Mr. Jaitely, this is not ...*(Interruptions)*... I can read if you want ...(*Interruptions*)...

SHRI ARUN JAITLEY: The hon. Home Minister has said that he was not committed to the Sessions Court, and that there is no case pending against him ...(*Interruptions*)... Then, why did he say, in 2004, in his affidavit that this case was pending against him. ...(*Interruptions*)...

SHRI SHIVRAJ V. PATIL: I am not arguing this case in a court, in a Sessions Court, or in a High Court. I am making my statement on the floor of the House in Rajya Sabha, and that too on the basis of a two-page information which I have got from the State Government, of which the Chief Minister belongs to your party. ...(*Interruptions*)...

SHRI ARUN JAITLEY: I am afraid, the Home Minister is still bound to state the correct facts in the House. He cannot take up a plea that the case is not pending. In 2004, an affidavit is filed. ...*(Interruptions)*...

SHRI SHIVRAJ V. PATIL: I am not alleging anything against you. But the fact is that if you are projecting this case politically on this floor, you should know that your Government had been there and you have been in the Central Government for six years, since the case was filed in 1975. ...(*Interuptions*)... And, then you come here on the basis of something which appears in the newspapers and call a person a "proclaimed offender" ...*(Interruptions)*...

SHRI ARUN JAITLEY: We did not make anybody a Minister, in our Government, who was accused of killing nine ...*(Interruptions)*...

SHRI SHIVRAJ V. PATIL: Please let me complete. ...*(Interruptions)*... Let me complete. Sir, the only request we are making is, we are neither supporting the Minister nor opposing the Government, nor opposing our friends sitting on the Opposition Benches. What we are saying is, please, don't raise these issues in this manner, because once you raise it, it appears in the newspapers, and no amount of explanation given can dispel the misunderstanding which develops against that person. That is why we were humbly submitting that you give a notice, we would collect the information, put up before the hon. Chairman and let him decide. But, they did not allow you to decide, Sir. They were asking us the question. And, whatever information I got, on the basis of that, I have submitted it before this House. Now, if you want to go into the details of all those things, go to the court, and argue the cases over there. Let somebody on your behalf do it there. I am not in a position, you are also not in a position to do that. The only submission, I am making is that in politics, the most important thing is your reputation. If you destroy your reputation, taking advantage of the fact that you are privileged on the floor of the House, that is not good. Protect our reputation; we will protect your reputation. ...*(Interruptions)*...

श्री सभापति: एक मिनट। ...(व्यवधान)...आप बैठिए, एक मिनट। ...(व्यवधान) ...एक मिनट बैठिए तो सही। मंत्री महोदय, आप एक स्पष्टीकरण कर दें कि इस समय कोई केस उनके खिलाफ पेंडिंग नहीं है।

SHRI SHIVRAJ V. PATIL: Sir, I can't say that because the First Information Report ...*(Interruptions)*... I can't say that ...*(Interruptions)*...

AN HON. MEMBER: How can you say so? ...*(Interruptions)*...

SHRI SHIVRAJ V. PATIL: And my statement is very clear, Sir, ...*(Interruptions)*...

श्री सभापति: ठीक है, ठीक है, he is not a 'proclaimed offender'. ...*(Interruptions)*...

SHRI SHIVRAJ V. PATIL: I have said that the First Information Report is there. And, that the case was given to the Magistrate. The Magistrate had committed only a few persons, and whether the ten persons' case is there or not, I have no information about it. ...*(Interruptions)*...

MR. CHAIRMAN: Now, we shall take up the Private Members' Resoultion. Shri Rajkumar Dhoot; not present. Shri R.S. Gavai.

PRIVATE MEMBERS' RESOLUTION

Extension of Reservation Policy Meant For SCs, STs AND OBCs to Private Sector

SHRI R.S. GAVAI (Maharashtra): Mr. Chairman, Sir, I move the following Resolution:

"Having regard to the fact that the founding fathers of our Constitution had made the provision of reservation for the Scheduled Castes and Scheduled Tribes who were exploited and looked down upon in the Indian society since time immemorial to improve their lot and

[THE VICE-CHAIRMAN (SHRI SANTOSH BAGRODIA) in the Chair]

bring them at par in the society and to ensure that they too enjoy the benefits of nation's freedom and till recently these communities were having the benefits of reservation in Government services but due to disinvestments and privatisation of public sector undertakings, banks and public utility services and ban on creation of new posts and non-filling of vacant posts on a very large scale by the Union and the State Governments has made the reservation policy redundant, this House is